

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

| | | |
|--------------------------|---|----------------------------|
| United States of America |) | |
| |) | Cr. No. 7:05-526-HMH |
| vs. |) | |
| |) | OPINION & ORDER |
| Sean Burnett Thomas, |) | |
| |) | |
| Movant. |) | |

This matter is before the court on Sean Burnett Thomas’s (“Thomas”) motion pursuant to Rule 59(e) of the Federal Rules of Civil Procedure requesting that the court reconsider its November 8, 2000, order denying his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. After consideration, the court denies Thomas’s motion.

Thomas’s motion fails to meet the legal standard for motions to alter or amend a judgment. Motions to alter or amend a judgment must be filed within ten days of the entry of judgment. See Fed. R. Civ. P. 59(e). The court denied Thomas’s § 2255 motion on December 11, 2006. Thomas filed the instant motion on February 12, 2007.¹ Therefore, Thomas’s motion is untimely.

Furthermore, even if construed as a motion filed pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, Thompson has asserted no grounds for relief. Rule 60(b) “invest[s] federal courts with the power in certain restricted circumstances to vacate judgments whenever such action is appropriate to accomplish justice.” Compton v. Alton Steamship Co., 608 F.2d 96, 101-02 (4th Cir. 1979) (internal quotation marks omitted). Rule 60(b) “does not authorize

¹Houston v. Lack, 487 U.S. 266 (1988).

a motion merely for reconsideration of a legal issue.” United States v. Williams, 674 F.2d 310, 312 (4th Cir. 1982). “Where the motion is nothing more than a request that the district court change its mind . . . it is not authorized by Rule 60(b).” Id. at 313. Thomas has not presented a basis for the court to grant relief pursuant to Rule 60(b). See Fed. R. Civ. P. 60(b) (enumerating grounds for relief).

Therefore, it is

ORDERED that Thomas’s Rule 59(e) motion, docket no. 139, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
February 26, 2007

NOTICE OF RIGHT TO APPEAL

The movant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.